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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,529	02/26/2004	Francis X. Shields	10022-442	6461
28164 7590 06/18/2009 ACCENTURE CHICAGO 28164 BRINKS HOFER GILSON & LIONE P O BOX 10395 CHICAGO, IL 60610				
EXAMINER				
WONG, ERIC TAI WAI				
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3693				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/787,529

Applicant(s)

SHIELDS ET AL.

Examiner

ERIC T. WONG

Art Unit

3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims **1-31** rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1 and 24, the claims recite “the clearing house being separate from and **unrelated to** the spot market operator” and “the clearing member being separate from and **unrelated to** the spot market operator”. It is unclear as to how the clearing house and clearing member are **unrelated to** the spot market operator. The clearing house takes on the exposure to default for trades executed on the exchange operated by the spot market operator. Therefore, both the clearing house and its members are in some way related to the spot market operator. **Claims 2-23 and 25-31** are rejected by virtue of their dependence on one of the aforementioned claims.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-8, 10-11, 24, 25, 28, and 31** rejected under 35 U.S.C. 103(a) as being unpatentable over CAL PX (“Power Exchange Settlement and Billing Protocol (PSABP)”, cited in prior Office action) in view of CPSS (“Clearing arrangements for exchange-traded derivatives”).

Regarding claims 1 and 24, CAL PX teaches receiving by the spot market clearing house data sent from the spot market operator indicative of an initial settlement amount for at least one trade in a predetermined period; sending an initial clearing statement from the spot market clearing house to at least one clearing member based on the data indicative of the initial settlement amount; recording by the spot market clearing house a funds transfer in accordance with the initial clearing statement before recording a funds transfer in accordance with the revised clearing statement, receiving by the spot market clearing house data sent from the spot market operator indicative of a revised settlement amount for the trade, the data indicative of the revised settlement amount being different from the data indicative of the initial settlement amount; sending a revised clearing statement from the spot market clearing house to the clearing member based on the data indicative of the revised settlement amount; and recording by the spot market clearing house a funds transfer in accordance with the revised clearing statement (see section 5.3.4).

CAL PX does not explicitly teach that the clearing house is separate from the spot market operator. CPSS teaches an exchange's clearing house may be a department of the exchange or a separate legal entity (see pg. 2). That is, a clearing organization may be a division of a particular exchange, an adjunct or affiliate thereof, or a freestanding entity. Therefore, it would have been obvious to one of ordinary skill in the art to modify CAL PX so that the spot market clearing house is separate from the spot market operator. One skilled in the art would have been motivated to make the modification to remove the exchange's exposure to default. The modification would have merely been the application of a known technique to a known method ready for improvement yielding predictable results.

Regarding claims 2 and 25, CAL PX teaches wherein the commodity comprises electricity (see section 4.2.1).

Regarding claim 3, CAL PX teaches wherein the trades comprise real-time trades (see section 5.1.3).

Regarding claim 4, CAL PX teaches wherein the trades comprise day-ahead trades (see section 5.1.3).

Regarding claim 5, CAL PX teaches wherein the predetermined period comprises one trading day (see section 5.3.3).

Regarding claim 6, CAL PX teaches wherein the data indicative of an initial settlement amount comprises aggregated data indicating a net settlement amount for a participant in the spot market (see section 5.2.2, 5.3.4).

Regarding claims 7 and 28, CAL PX teaches wherein the data indicative of an initial settlement amount relates to an executed trade; wherein the data indicative of the initial settlement amount is based on an estimate of an amount of commodity transferred corresponding to the executed trade; and wherein data indicative of the revised settlement amount is based on a measured amount of the commodity transferred (see section 4.3.1).

Regarding claim 8, CAL PX teaches wherein the data indicative of revised settlement amounts are based on power line measurements (see section 4.3.1).

Regarding claim 10, CAL PX teaches wherein receiving by the spot market clearing house data sent from the spot market operator further comprises receiving data indicative of at least one revised settlement amount for at least one trade in a period prior to the predetermined period; and wherein the initial clearing statement is based on the data indicative of an initial settlement amount and the revised clearing statement is based on the data indicative of the revised settlement amount (see section 5.3.4).

Regarding claim 11, CAL PX teaches wherein the data indicative of the initial settlement amount and the data indicative of the revised settlement amount comprises a net

settlement amount, the net settlement amount comprising a single number that the participant owes to or is owed from the spot market operator (see section 5.3.4).

5. **Claims 9, 12-23, 26-27, 29-30** rejected under 35 U.S.C. 103(a) as being unpatentable over CAL PX in view of CPSS, further in view of Shimko et al. (US Patent No. 7,139,730 B1, cited in prior Office action).

Regarding claims 9, 12, 21, 26, and 29, CAL PX does not explicitly teach determining by the spot market clearing house a performance bond for at least some of the participants based on the trades for a current day of trading and including the performance bond information on the clearing statement. Shimko et al. teaches calculating performance bonds by a clearing house for participants based on their trades for a current day of trading (see column 3 lines 14-22). It would have been obvious to one skilled in the art at the time of invention to modify the clearing house of CAL PX with calculating performance bonds for a current day of trading as taught by Shimko et al. One skilled in the art would have been motivated to make the modification for the benefit of reducing the risk taken by the clearing house. Examiner asserts that it was old and well known in the art at the time of invention to include margin information on a clearing statement (eg. a margin call). Thus, it would have been obvious to one of ordinary skill in the art to modify the method of CAL PX further to include the performance bond information on the clearing statement. One skilled in the art would have been motivated to make the modification for the benefit of reducing the risk taken by the clearing house.

Regarding claim 18, CAL PX does not explicitly teach determining a performance bond by analyzing aggregated settlement amounts. Shimko et al. teaches determining a performance bond by analyzing aggregated settlement amounts (see column 5, lines 62-67). It would have been obvious to one of ordinary skill in the art at the time of invention to further modify the method of clearing of CAL PX to include determining a performance bond by analyzing aggregated settlement amounts. One skilled in the art would have been motivated to make the modification for the benefit of reducing the risk taken by the clearing house.

Regarding claims 22 and 27, CAL PX does not explicitly teach determining a number of days to collateralize; determining positive exposures of trades for a participant with at least one spot market operator for most recent days trading equal to the number of days to collateralize; and statistically analyzing the determined positive exposures. Shimko et al. teaches collateralizing for a short time period and statistically analyzing the determined positive exposures. Therefore, it would have been obvious to one of ordinary skill in the art to modify the clearing house of CAL PX with determining a number of days to collateralize; determining positive exposures of trades for a participant for most recent days trading equal to the number of days to collateralize; and statistically analyzing the determined positive exposures. One skilled in the art would have been motivated to make the modification for the benefit of reducing the risk taken by the clearing house.

Regarding claim 23, CAL PX does not explicitly teach determining position exposures of trades comprises determining position exposures of trades for a participant with multiple spot market operators. Shimko et al. teaches determining position exposures of trades for a participant with multiple counterparties (see column 3 lines 14-22). Therefore, it would have been obvious to one of ordinary skill in the art to modify the clearing house of CAL PX with determining position exposures of trades for a participant with multiple spot market operators. One skilled in the art would have been motivated to make the modification for the benefit of reducing the risk taken by the clearing house.

6. **Claims 31** rejected under 35 U.S.C. 103(a) as being unpatentable over CAL PX in view of CPSS, further in view of Shimko et al., further in view of Official Notice.

Regarding claim 31, CAL PX does not explicitly teach determining position exposures of trades comprises determining position exposures of trades for a participant with multiple spot market operators.

Official Notice is taken that clearing houses which offer clearing of products on multiple exchanges were old and well known in the art at the time of invention. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to have modified CAL PX further with wherein the spot market clearing house receives data sent from a plurality of spot market operators, the data indicative of a plurality of trades executed by the plurality of spot market operators for a specific participant, each of the plurality of spot market operators being separate from the spot market clearing house. The modification would have merely been the

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application of a known technique to a known method ready for improvement yielding predictable results.

Response to Arguments

7. Applicant's arguments with respect to claims 1 and 24 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIC T. WONG whose telephone number is 571-270-3405. The examiner can normally be reached on Monday-Friday 9:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James A. Kramer can be reached on 571-272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James A. Kramer/
Supervisory Patent Examiner, Art Unit 3693

ERIC T. WONG
Examiner
Art Unit 3693

April 30, 2009